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**How low can it go:**  
Corporate Governance at Millennium BCP

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## Abstract

*How low can it go* is a case study, supported by teaching notes, which describes the circumstances that led to a significant decrease on the stock price of Millennium BCP, the biggest Portuguese private bank. The case highlights the impacts of a failed succession plan on a public institution, the consequent shareholder fight and the opacity which characterized the management of the bank. The governance model revisions brought no stability to the bank which led its stock price to a residual value. The initial separation between management and ownership and the different shareholders' interests made it very difficult for shareholders to later control and set a strategy for the bank.

**Keywords:** Banking; Corporate Governance; Succession Plan; Market Manipulation.

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## How low can it go

### Corporate Governance at Millennium BCP

On May 28, 2007 a General meeting was held between the *Millennium BCP* shareholders who were called to participate and vote upon a change in the governance model of the bank. This change was to give back the Supervisory Board the power of electing the Executive Board but, even more, it would materialize a dilemma faced by the bank: to keep a Two-tier Board giving the Supervisory Board, chaired by Jardim Gonçalves, the power of choosing the Executive Board or to change it to a One-tier Board where the Executive Board, led by Paulo Teixeira Pinto, would manage the bank's daily operations independently. The items on the agenda, presented by Jardim Gonçalves, represented a true intimidation from the Chairman of the Supervisory Board and there could be only one winner, either Jardim Gonçalves, the experienced banker responsible for the bank for the past 20 years, or Paulo Teixeira Pinto, his successor as CEO with impressive expectations for the bank and a failed acquisition (of *Banco Português de Investimento*) already in his resume.

In the end, Jardim Gonçalves left through a side door, defeated and surrounded by bodyguards and journalists. José Berardo supported Teixeira Pinto and left the GM exuberant and ready to announce the defeat of the former leader to the country<sup>i</sup>. Berardo, borrowed enormous amounts of money from BCP itself and the Portuguese national bank, *Caixa Geral de Depósitos* (CGD), to increase his stake as a BCP shareholder<sup>ii</sup>. Having borrowed more than €300 million from CGD to invest in the equity of the bank, he became the most activist individual shareholder of the bank.

Power over BCP would eventually lead to political disputes later in 2008 and it can be seen as an example of how 20 years of leadership might fall. (**Exhibit 1**)

### History of BCP

In 1975, following the end of the dictatorial regime<sup>1</sup>, the Portuguese banking sector was nationalized. The 1976 Portuguese Constitution prohibited re-privatizations of the existent

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<sup>1</sup> From 1933 to 1974, the Portuguese Republic was characterized by a nationalist and fascist regime, led by António de Oliveira Salazar.

institutions and furthermore, the banking activity was prohibited to private institutions.<sup>iii</sup> Whoever wanted to access the banking services had to rely on state-owned banks or foreign banking institutions already established in the country. Only in 1984, after changing the law, three new banks were authorized to initiate business in Portugal: two foreigners, *Manufacturers Hannover* and *Chase Manhattan Bank*, and one national, *Banco Português de Investimento* (investment bank).

João Rendeiro, former BCP's shareholder and founder of *Banco Privado Português*, stated that the bank's creation was "*a laboratory result from McKinsey's drawing board*"<sup>iv</sup>. Manuel Violante<sup>2</sup> and Christopher de Beck<sup>3</sup> would have fierce discussions in the working space to build the most solid business model, capable of exploring the underdeveloped financial Portuguese market like no other. A huge investment would be allocated to create the most advanced IT infrastructure among the Portuguese banks capable of serving the strategic decisions made by Jardim Gonçalves and his team.

### *The Leader*

Jorge Manuel Jardim Gonçalves was the man appointed to build and manage the bank's activities. Born in Funchal, Madeira in 1935, to a very religious family, he studied engineering and after a short professional experience on *Port of Leixões*, he entered the banking industry through *Banco de Agricultura*, in Portugal, taught by Eduardo Consiglieri Pedroso. He would later bring this experienced banker to BCP's administration. He then moved to *Banco Popular*, in Spain, motivated by the nationalization of the Portuguese banking sector, in 1974, and joined Opus Dei<sup>4</sup>. In 1977 he returned to Portugal to become a member of the executive board of *Banco Português do Atlântico* and joined BCP administration in 1984, invited by Américo Amorim. Jardim Gonçalves called Manuel Violante to help building BCP, establishing himself as one of the biggest bankers in the Portuguese history. The first choice to lead the new bank's project was Fernandes Tato, president of *Banco Borges e Irmão*. However, he declined the offer, since he believed that a private bank would never succeed in Portugal. His lack of vision opened a clear path for Jardim Gonçalves.

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<sup>2</sup> Manuel Violante studied power engineering and economics in Portugal and later moved to France to study at Insead. In 1975 he joined the McKinsey's office in Paris. Worked in Italy, Algeria and then moved to the Spanish offices of the firm. There he intensified its responsibilities as Financial Consultant, working with BPA, *Banco Totta & Açores* and BCP in 1984/85.

<sup>3</sup> Christopher de Beck was the man responsible for building the IT infrastructure of BCP. Trustworthy by Manuel Violante and Jardim Gonçalves, he joined the Executive Board in 1988 and remained there for more than 20 years.

<sup>4</sup> Opus Dei, in English The Work of God, is a catholic prelature founded in Spain in 1928 by Josemaría Escrivá where members are called to sanctify their ordinary lives, through work and professional competence.

### *Freedom to Govern*

Since the very beginning, the management team established a strict separation between itself and the shareholders. One of the principles was: the bank would not be a “*self-service for shareholders, being attributed to the executive board full autonomy and responsibility of management*”<sup>vv</sup>. Jardim Gonçalves would only accept the invitation if this condition was met.

On June 17<sup>th</sup>, 1985, the limited liability company was constituted and during the first General Meeting the Executive Board was elected. It was formed by Jorge Jardim Gonçalves (CEO), Eduardo Consiglieri Pedroso, Eurico Nunes, Francisco Ferreira da Silva, and Luís da Mota Freitas.

The bank created a Delegated Committee<sup>5</sup> (**Exhibit 2**) composed by its key shareholders (some of which would eventually become big borrowers of the bank<sup>vi</sup>). They would be informed about the annual budgets and strategies, follow the evolution of the bank’s business and evaluate the management initiatives to be proposed at the GM. Furthermore, they should advise on capital increases, and other relevant management decisions that were presented by the Executive Board, some in regard to their own debt and investments. The bank did not have a relatively independent board of directors, common practice of the Portuguese companies at that time.

### *The first fifteen years*

According to Maria Teixeira Alves<sup>vii</sup>, Mr. Violante’s experience in the banking industry helped Jardim Gonçalves for approximately fifteen years. Client segmentation and a strong technological infrastructure were defined as priorities by Jardim Gonçalves and the McKinsey’s Consultant.

The bank’s first ten years were characterized by strong organic growth with annual growth rates of approximately 15%<sup>viii</sup>. BCP was able to segment its clients from the very beginning, thus offering a much more suited range of financial products. As in any new and small bank, the clients were, on one side, high net worth individuals, served by *BCP Particulares*, and on the other, small and medium enterprises, served by *BCP Empresas*. Later, through *NovaRede* (“mid-income range” individuals) the bank established itself as one of the most promising players in the domestic market. As the bank reached a broader clientele, the cross-selling of financial products also became an important strategy.

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<sup>5</sup> The name of this corporate body was changed to Senior Board in 1993.

BCP offered an account manager to all clients and remunerated checking accounts, a unique feature in Portugal at that time. Also, clients had access to the Portuguese booming stock market<sup>ix</sup> through the bank's systems, without needing external brokers. Furthermore, the robust systems of market monitoring helped the bank to constantly improve the quality and range of new products from insurance to personalized investment plans. From the initial two branches (one in Porto and the other one in Lisbon) and a vision of “knowing our target market by their names, surnames, and addresses” the bank expanded to more than 300 branches by 1993.

The bank's fast growth led to discussions about a capital increase only four months after opening for business. The first one, directed to the initial shareholders, was completed in March 1987. The second one was directed to shareholders, bank's employees and the general public in September of the same year. In two years BCP's equity increased from €17 million to €35 million and stocks were at this point available to all the interested public, with BCP's brokerage system as the main driver in gathering new investors. Also, in 1992, the Delegated Committee discussed if the bank should open their capital increases to international investors. CEO's plan was to issue bonds for the European market and ADRs<sup>6</sup> for the American market.

Some shareholders were sceptical about this strategy. In fact, Américo Amorim, the biggest BCP shareholder with approximately 25% of the bank's equity, stated that he could cover the capital needs of the bank. He would say that Jardim Gonçalves was stepping away from the initial project of the bank while the initial shareholders were losing strength on GMs. The CEO identified some problems in this proposal and argued that there were other interested parties in the bank's decisions apart from Américo Amorim.<sup>7</sup> This was the first dispute between Jardim Gonçalves and one of the bank's shareholders and he managed it by proposing to the GM the limitation of the number of votes per shareholder. Amorim expressed his intention to vote against and claimed that he could not be jeopardised for his position on the bank's equity. The measure was voted favourably on the 22<sup>nd</sup> of March 1993, setting the voting rights to a maximum of 10% and AIP delegated BCP's Executive Board to select a buyer for 15% of its share in BCP equity. *Banco Central Hispano-Americano* was the chosen institution and got one place on the Senior Board, which was still chaired by Américo Amorim.

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<sup>6</sup> According to OECD, an American Depositary Receipt (ADR) is a certificate issued by a U.S. depository bank that is negotiable and represents a specified number of shares of a foreign company. These products trade in the U.S. markets as any stock would trade.

<sup>7</sup> During 1990, Américo Amorim concentrated all his BCP equity in one company called *Amorim Investimentos e Participações, SGPS* (AIP) and *Banco Indo-Suez* entered AIP's capital structure with a 20% share in that same year.

Jardim Gonçalves then directed the bank to acquisition strategies. The first attempt was to acquire *Banco Pinto & Sotto Mayor* in 1993 from the Portuguese state. However, the process was called off due to disagreements on the price. BCP would eventually buy BPSM in 2000 since the state did not want the bank to fall under a foreigner group. *Caixa Geral de Depósitos*, the state-owned bank, then sold its majority position of the bank to BCP instead of *Banco Santander Central Hispano* (the Spanish contender)<sup>x</sup>.

In 1995, Jardim Gonçalves launched a hostile tender offer for *Banco Português do Atlântico* (BPA), a well-known institution for BCP's president. On the run to acquire a much bigger bank (30% bigger), the management realized the effort that had to be made to integrate the two banks' IT systems and employees. BCP entered the market as an ultramodern and dynamic bank with carefully chosen employees. BPA's employees were, on the other hand, older, not as enthusiastic nor motivated and used to a much slower working pace. Nevertheless, the acquisition would be a defensive move against the consolidation trend that European financial services were facing, and it would enable better commercial capabilities. Risk diversification was also important because the combined institution would increase the volume of the insurance business and other cross-sold financial products where BPA was not performing well. The acquisition and further integration were a very important achievement for the bank as it proved the existence of growth opportunities from acquisitions.

An international focus emerged at the end of the XX century, when the bank looked to expand its business to Poland and Greece. The accumulated experience would be enough to explore these two financial markets which, like Portugal in the 1980s, were poorly developed.

*Millennium* was created in Poland, in 1999, in a joint venture with *BIG Bank Gdanski* (50% split) where the model to be applied was very similar to the one once applied in the beginning of BCP. *NovaBank* was created in Greece in a partnership with the *Greek Interamerican Hellenic Life Insurance Company* to launch a banking business operating very much like *NovaRede* did in Portugal. This was a big year since the bank had joined forces with the *Achmea* group (Dutch insurance group) to develop the group's banking activities. BCP would, again, use its expertise in the high net worth individuals segment and, furthermore, capture a "large and developed European retail banking market". The project did not go through, but the partnership named *Eureko*<sup>8</sup>, operating on the insurance business, was kept alive

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<sup>8</sup> This insurance alliance operating on the European market was formed in 1993 and composed by *Ocidental* (a subsidiary of BCP), the UK-based *Friends Provident* and the Dutch *Avero Centraal Beheer*, later called *Achmea*.

and it became BCP's biggest individual foreign investment. *Eureko*'s goal was to become one of the top-ten "asset gatherers" in Europe, with BCP increasing its position on the alliance from a 15% share to 23%, by mid-2000.

Community banking projects were also worth the attention, and in the US and in France, BCP started providing financial services to the Portuguese communities. As for the Iberian market, a partnership with *Banco Sabadell* looked to conquer the peninsula's e-finance business. *ActivoBank*, for individuals, and *Managerland* for corporate customers, would be the two main initiatives resulting from the partnership.

Manuel Violante would eventually die in the beginning of 2000 and leave BCP orphan of one of its fathers.

### Infinite possibilities

It seemed that by the end of the century, BCP could participate in all investment opportunities. The bank exploited the ease of conceding credit under the Portuguese legislation and extended it for capital increases (**Exhibit 3**). These were conducted in 2000, €17 million concerning the conversion of convertible bonds, in 2001, €714 million concerning the acquisition of the insurer *Imperio* and the bank *Banco Pinto & Sotto Mayor* and in 2003 of €930 million, among others in more recent times. The bank would grant loans to its clients to buy the new shares, receiving those same shares as collateral. The credits were extremely risky which led some clients to sue the bank claiming they were convinced by their account managers to buy the shares and hold on to them (hard-selling). When confronted by the deputy Francisco Louçã about an existent internal document giving the selling strategy to the employees, Jardim Gonçalves said: "*to persuade, is not to oblige, each one decides for himself.*"

The problems with these loans would not be visible if the share price continued to go up, but it did not last long. Jardim Gonçalves blamed the BCP's bad performance on the stock markets on the 9/11 tragedy and its impacts on the insurance alliance, *Eureko*. João Talone, member of the Executive Board of BCP and CEO of the insurance group, resigned on December 2001 due to the bad results of the business. The alliance reported losses of around €591 million by September 2002, contrasting with the €228.5 million in profits of the previous year<sup>xi</sup>, affecting the stock price of the bank. Dozens of individuals and families became insolvent and foreclosures happened to pay back the loans. The clients' situation became even more delicate as the loans had been sold to factoring enterprises<sup>xii</sup>, which were less reasonable on the strategies used to recover the money. Others considerably wealthier, like José Berardo, who



borrowed from *Caixa Geral de Depósitos* (the state-owned bank) or João Pereira Coutinho, who borrowed from BCP itself<sup>xiii</sup> to buy BCP's stocks, also saw their investments' value substantially reduced.

### The Succession of Jardim Gonçalves

Jardim Gonçalves held the CEO position for 20 years. Only in March 2005, after renaming all the banking business to *Millennium*, he announced that a successor would be elected. Paulo Teixeira Pinto had the unilateral blessing from Jardim Gonçalves, who later communicated the decision to the Executive and Senior Boards, respectively. All the Board members were caught by surprise<sup>xiv</sup>. Teixeira Pinto knew nothing about lending, but he had access to very important meetings and information about BCP due to his position of secretary-general. His involvement as the director of the *Millennium Program*, a renovation program of the institution, was, for some, the ultimate credibility check for the future banker. He was very much aligned with Jardim Gonçalves' conservative ideas and gestures, like a good disciple. For example, they were both members of Opus Dei. Jardim Gonçalves' idea was to choose a man with an incredible sense of loyalty, respect and devotion and thought he would be able to continue managing the bank's operations with Teixeira Pinto as CEO. It was expectable that Filipe Pinhal would be the first option, since he had been the former president's right arm for several years. Nevertheless, by not choosing one of the oldest and more experienced executives, he prevented the board from a hostile environment amongst other members.

Board members accepted the decision and Paulo Teixeira Pinto kept the same Executive Board members to silence and get the precious help of the experienced professionals, very used to manage the bank's business. The Executive Board was then composed by Paulo Teixeira Pinto as the president and Filipe Pinhal, Christopher de Beck, Alípio Dias, Francisco de Lacerda, António Castro Henriques, Boguslaw Kott, António Rodrigues, and Alexandre Bastos Gomes.

Under the guidance of Jardim Gonçalves, by this time president of the Senior Board, the year of 2005 was considered positive for the bank, having registered a net income increase from €528 million, in 2004, to €610 million on a current basis.

### Teixeira Pinto and the split from the master's ideas

Only in 2006, when the new CEO announced the intention of doubling the bank's size, executive members, managers, shareholders, and even Jardim Gonçalves started to fear unconventional decisions.

As part of these decisions, Paulo Teixeira Pinto decided to propose a change of the current governance model (**Exhibit 4**). This new model, adopted on the 13th of March 2006 (**Exhibit 5**), set a Double-Tier Board, where an Executive Board, managing the daily operations of the institution and elected by the General Meeting, would work independently from a Supervisory Board, responsible for the monitoring and supervision of the first board, deliberating on the Risk Management policy, independence of the Statutory Auditor and the external auditors. Jardim Gonçalves approved the idea but under the proposed model the Supervisory Board would not be able to elect the Executive Board. Carlos Tavares, the president of *Comissão de Mercado e Valores Imobiliários*, CMVM (Securities Market Regulator) was very welcoming to this new model because it was aligned with the best international practices<sup>xv</sup>. However, he expressed his concerns about the loss of elective power of the Supervisory Board, as it was not contemplated in the law.<sup>xvi</sup>

Then, the new CEO took the decision of acquiring *Banco Português de Investimento* (BPI). Both banks had similar history and structure and BPI's investors backed the foundation of BCP. The commercial bank was to be born under the BPI group as a complement to the existent investment bank, proving they were very prone to mergers and acquisitions from both sides. Jardim Gonçalves discussed a possible merger with Artur Santos Silva (BPI's president) in 1989, for the first time. BCP and BPI had important market shares in commercial and investment banking, respectively, so, they were seen as complementary to each other. BCP's president at the time clearly intended the institution to proceed as one. However, after a long period of discussion and an almost closed agreement, Artur Santos Silva called off the wedding, alleging that his bank should first grow organically. On March 13th, 2006, with *Union de Banques Suisse* (UBS) as underwriter, Paulo Teixeira Pinto presented to the shareholders the proposal to acquire BPI for €5.70 a share (ex-dividend of 2005 of €0.12) at a total price of €4 332 million for 100% of the outstanding shares. It would represent a 27% premium from the last three months' price average and would be financed with 92% new equity (through rights issue) and 8% with internal resources. The rationale was as follows: the deal would create an unquestionable Portuguese leader; there were estimations of €232 million in annual synergies before taxes; both institutions were complementarity in numerous areas, and there was hope that the transaction would be accretive for the results.<sup>xvii</sup>

Jardim Gonçalves, on the other hand, heard from a *Morgan Stanley* consultant that their prospects for this deal were not that optimistic, and Paulo Teixeira Pinto was aware of it. In a position of full support to his successor, Jardim Gonçalves did all the efforts to help closing the

deal, including meeting with *Banco Itaú* (one of BPI's biggest shareholders) but BPI was prompt to consider this offer as hostile and the administration declined it by unanimity. BPI's shareholders were advised not to reduce their positions and the subject would be closed with UBS collecting €58.8 million in commissions for the underwriting agreement.<sup>xviii</sup>

Francisco Lacerda and António Castro Henriques were the only two executives who helped with the offer preparation, later transmitted to António Rodrigues, the CFO. But a few days before, the rumours of a tender offer reached the *media* and the country's specialized finance. Even more, before that, BPI's administration realized their bank was a target. According to the *media*, stockbrokers then had a big impact on the transmission of this secret information to four investors who made millions in just one day: José Berardo (around €1 million), Leopoldo Martins (around €450 thousand), Patrick Monteiro de Barros (around €1 million) and the society Ruby Capital (around €700 thousand).<sup>xix</sup> Portuguese courts did not find evidence of fraud, though.

In December 2006, a BPI's General Meeting would vote on the extinction of its position in BCP's capital but Jardim Gonçalves, as BCP representative, attended the GM to vote against the decision since the bank still had a position of 3.8% in BPI, and it's said that this was the first time Jardim Gonçalves used his reputation to intimidate his competitors. BPI remained BCP's biggest shareholder until December 2007.

The transaction's success became almost impossible when *Banco de Portugal* authorized the Spanish bank *La Caixa* to increase their position in BPI from 22% to 33%, in January 2007. Paulo Teixeira Pinto was even forced to increase BCP's position in BPI to try and block a possible counteroffer. Followed by an increase in the offered price and another rejection from BPI's shareholders, Teixeira Pinto acknowledged defeat leaving a trail of wounded relationships on his Executive Board, as well as the bank's reputation diminished. The date of death for the transaction was the 7th of May 2007.

### The boomerang effect

Jardim Gonçalves, on the 28th of May 2007, proposed to the General Meeting another change in the governance of the institution, in which the president of the Executive Board would be elected by the Supervisory Board (chaired by him). This was the beginning of a fight that would deeply hurt the bank. Allegedly, Jardim Gonçalves guaranteed the executive president the seat on the board. However, Teixeira Pinto's started to gather shareholders and possible future shareholders to help him reduce the experienced banker's power (**Exhibits 6 and 7**). At the

same time, the public opinion raised its voice against Jardim Gonçalves because of his exuberant lifestyle and Opus Dei membership.

Furthermore, the Senior Board was not as stable as before. It now had 34 members, including the Chairman, Deputy Chairmen, Voting members, the Chairman of the General meeting of Shareholders, the members of the Supervisory Board and the Chairman of the Executive Board of Directors, with new members having bad relationships with Jardim Gonçalves, such as *Energias de Portugal* (EDP), *Banco Sabadell*, Manuel Fino, and Vasco Pessanha. It was expected that this Board would agree on everything that would be proposed by the Supervisory Board, but this was not the case anymore. Besides, long-dated members, due to the proximity with the Chairman, remained there despite the reduced percentage of the bank's capital (in total, less than 30%)<sup>xx</sup>.

Paulo Teixeira Pinto gathered enough shareholders to block the proposal on the 28th of May General Meeting and Jardim Gonçalves left, defeated, still with no power over the bank.

### Shareholders' fight and a new change in governance

Tension and disparities increased at the Executive Board, between Paulo Teixeira Pinto, Francisco Lacerda, and António Castro Henriques on one side, and the other five directors on the other, having the CEO expressed to the Senior Board that he could not lead the bank in such conditions.

The Teixeira Pinto's efforts to collect allied shareholders resulted in the *Pinto's Seven* group. Because they had 5% of the bank's equity, they managed to call another General Meeting, on the 6th of August 2007, with the clear objective of dismissing the five executives who were against Paulo Teixeira Pinto: Filipe Pinhal, Christopher de Beck, António Rodrigues, Alípio Dias, and Alexandre Bastos Gomes. Furthermore, they intended to change back to a one-tier Board, where the Supervisory Board would be dismissed. The Chairman of the Supervisory Board wrote to the shareholders the following:

*"The proposed [changes] (...) endanger the quality, the experience, the knowledge and the culture of the Bank's Team and, because of that, reduce the trust in management capacity and value creation of Your Bank".<sup>xxi</sup>*

Paulo Teixeira Pinto and the shareholders gathered by him abandoned the idea. A probable loss would be costly for his group's credibility, so they tried to increase the size of the Executive Board, from nine members to thirteen, to include four new directors aligned with Teixeira

Pinto's vision and objectives. Another loss was assumed as soon as Fernando Ulrich communicated BPI's vote against this point at BCP's General Meeting.

### José Berardo, the loudest shareholder

Born in Madeira, José Berardo, member of *Pinto's Seven*, assumed this war to be personal. Justification comes from the fact that Jardim Gonçalves always assumed a far superior status in respect to the businessman, despite his banking experience in *Bank of Lisbon and South Africa*. He became as loud as possible to overthrow the former BCP's president. Fight over the power in BCP became so important that he let go €200 million in gains. He tried to expose the expenses with remuneration of members of the corporate bodies, including Jardim Gonçalves, and the lack of transparency in his communication with the shareholders. It's important to remember that, at the same time, he was voting to expand the Executive Board, thus increasing the expenses in remunerations. Also, the investor would buy shares through *Metalgest*, transferring them to his Foundation, *Fundação de Arte Moderna e Contemporânea* and never showing its financials to the general public. His intention didn't materialized though, as the Remunerations and Welfare Board, constituted by António Gonçalves, João Pinto Basto and Pedro Maria Teixeira Duarte, alleged that, in any public company, these subjects should be addressed with certain levels of discretion (**Exhibits 8 and 9**). One should remember that Jardim Gonçalves and Teixeira Duarte family had very strict relationships. Both families were closely tied to Opus Dei, and João Afonso Teixeira Duarte (brother of Pedro Maria) married Sofia Jardim Gonçalves, daughter of the former president Jorge Jardim Gonçalves, and together they had 14 children.<sup>xxii xxiii</sup>

From private jet and travels to driver, security, restaurant bills and even the use of a helicopter, the former president had it all and kept a €167 thousand monthly pension with the security and transportation expenses covered. Jardim Gonçalves protected his pension conditions and later in 2010, when the bank's management tried to cut costs with the huge pensions of former executives, he stated that changing them: "*Is the same as reviewing the price the bank paid for the acquisition of BPA, Mello e Sotto Mayor. There are no competences to change it and they [the bank's Remuneration Committee] know it.*"<sup>xxiv</sup>

### One man down, another one to go

On the 6th of August 2007, the General Meeting would put an end to the story. Actually, two General Meetings: one was public for all shareholders and press, ran by all the formal rules, and another one, "*anarchic, with lawyers and clients (...) negotiating last-minute deals and*

*strategies to be developed*<sup>xxv</sup>. Teixeira Pinto acknowledged defeat by eliminating both proposals to replace five of the directors and to increase the executive board size. However, due to a technical issue, the GM was postponed for the 27th of August. By that time, the fight had become unbearable for Teixeira Pinto, so he decided to step out on the 31<sup>st</sup> of August with a package of €10 million, plus annual pension of €500 thousand for the rest of his life. Filipe Pinhal, chosen by Jardim Gonçalves, took office as the new CEO on the 3rd of September.

Directors who have been tied to the cause of Paulo Teixeira Pinto were “punished”. Negotiations with *Sonangol* and *Fortis*<sup>9</sup>, previously managed by António Castro Henriques, were now the responsibility of Christopher de Beck and António Rodrigues, respectively. These were strategic relationships capable of changing the shareholder structure (and so they did) as Teixeira Pinto, during the dispute for power, “sold” places on the governing bodies in exchange for their support in GMs

During the first month of Filipe Pinhal as CEO, Pedro Maria Teixeira Duarte continued to lead the negotiations with shareholders to find a solution that would bring peace to the institution but his intention of satisfying the biggest number of shareholders would conduct to Jardim Gonçalves’ dismissal. To make it happen, and considering the chairman had one year remaining on the seat, the governance model would have to be changed.

A “new” one-tier board, with Executive Board, Fiscal Board and an External Auditor was consensual among the majority of shareholders and an extended Executive Board was also under discussion. When Jardim Gonçalves realized his position was potentially compromised he nominated Bayão Horta, member of the Senior and Supervisory Boards, for the negotiation task, leaving Pedro Maria Teixeira Duarte behind. Bayão Horta did not have the necessary relationships with shareholders, nor the capital to be “accepted” in the discussion so, after the failed negotiations, he resigned from all the governing bodies.

### Hidden decisions

On October 10th, *Expresso* and *Público*, two Portuguese newspapers, released news stating that BCP, in late 2004, assumed as unrecoverable the €12.5 million borrowed from Jardim Gonçalves’ son companies, the *Group V*.<sup>xxvi</sup> The decision was not discussed on the Executive Board and Carlos Picoito, member of the legal advice office, wrote directly to Alípio Dias,

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<sup>9</sup> *Sonangol* is an Angolan state-owned company operating in the oil and natural gas industries. *Fortis Group*, now named *Ageas Group*, operates in the insurance business partnering with BCP in a joint venture called *Seguros Millenniumbcp Fortis Grupo Segurador, S.G.P.S., S.A.* in 2005. Both companies had been increasing their share on BCP’s capital, assuming highly qualified positions.

member of the Executive Board, stating that “*most of the Group V companies were completely paralyzed, without assets or own resources of any kind*”. Furthermore, facing the complete lack of assets, any legal procedure would be destined to failure. The group’s directors wanted then to negotiate a deal with the bank where the debts would be given as unrecoverable and the companies extinct. Only two BCP board members were aware of the situation: Alípio Dias and Filipe Pinhal, who stated that the default followed all the legal procedures<sup>10</sup>. The bank was also under investigation regarding the renegotiation of €15 million on Goes Ferreira’s companies. He was also a member of BCP’s Senior Board and close friend of Jardim Gonçalves. Later, on December 2007, *Expresso* claimed that €28.5 million in loans were considered as unrecoverable in these companies, which were not discussed among directors of the Executive Board. There was not a careful analysis by the Audit and Risk Committee, composed only by independent members, and neither the IAS 24 procedures were followed (**Exhibit 10**).

For the *grand finale*, Berardo delivered documents to the Portuguese markets and financial institutions regulators, CMVM and *Banco de Portugal*, respectively, alleging illegalities on 17 offshore entities, without owner, and other 4 owned by members of the Senior Board. These last 4 entities, owned by Goes Ferreira, had always been under supervision of the regulators and never attracted any suspicion of illegal practices. However, Jardim Gonçalves represented their voting rights in the group’s General Meetings, even in the presence of Goes Ferreira, indicating that these companies might have been instruments used by the bank under the name of a shareholder and member of the Senior Board.

Berardo provided one document proving that Filipe Pinhal named one of the bank’s directors to manage those “owner-free” entities. They were based on the Cayman Islands and used by the bank for market manipulation. But the investigation started only when those entities reflected liabilities of more than €400 million.

The inquisitions conducted by CMVM made some employees, who were supporters of Jardim Gonçalves, to confess that the operations with these companies were ordered and allowed by him. The regulator presented a report with the preliminary conclusions and forced the bank to communicate it as a statement: “*the financing conditions and the governance model of the entities indicate that BCP assumed all the risk of those off-shore entities and that it had dominance powers over the life and business of those entities;*”. Furthermore: “*It was detected*

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<sup>10</sup> Jardim Gonçalves eventually paid the debt of Filipe Jardim Gonçalves in October 2007.

*market transactions by the referred entities, frequently and in significant amounts, that need further investigation to identify possible infractions to the markets' rules".* <sup>xxvii</sup>

Operating only on the secondary market and trading exclusively BCP's shares with money given by the bank, the companies would buy when the price of BCP's shares was low, and sell when the price was high, in the words of João Duque, the delegated specialist by the Portuguese courts for the case<sup>xxviii</sup>. Later, it was discovered that some of these bank's offshore entities were transferred to shareholders, to help the bank reflect lesser liabilities on its balance sheet. Portuguese courts used this against Jardim Gonçalves (former president), Filipe Pinhal (former president) and António Rodrigues (former CFO), in 2015, and pledged them guilty for market manipulation, resulting on the payment of €600 thousand, for Gonçalves, and €300 thousand for both Mr. Pinhal and Mr. Rodrigues.

### The end of a reign

Investigations and disputes continued over time but Jardim Gonçalves agreed to step out of the bank on the last day of 2007 after long negotiations with BPI for a merger and that would be his last effort to restore the credibility of the bank. On the other hand, shareholders like Berardo and *Sonangol* had different interests, since they feared that very little would be left for them at the new institution. BPI pointed out the critical aspect for the success of the new bank, *Millennium BPI*:

*"Millennium BPI will have as shareholders strong and prestigious financial institutions, an extended range of Portuguese companies and businessman, institutional investors, business partners and thousands of individual investors."*

Nevertheless, the merger was not successful and new parties entered the fight over power in BCP. Political interest increased on the bank's situation with the two biggest parties (PS and PSD) backing two separate lists for the Executive Board.

The final years of Jardim Gonçalves' reign were harmful for the biggest Portuguese private bank and all its stakeholders. Discussions over the governance model of the bank went back and forth but it surely started with the bad performance of the stocks. It even led to personal disputes among shareholders and managers, in which changes of the governance model were used as the instrument to try and get the power on BCP. Small investors, some of them clients, lost thousands of euros with BCP stock. Larger institutional and individual shareholders saw



## How low can it go: Corporate Governance at Millennium BCP

the value of their investment reduced to almost nothing due to a fight that had very little to do with strategies for value creation.

*“The Corporate Governance Models might be perfect, but they will not work if the people in charge are not the most suited.”*

- Carlos Tavares, President of CMVM, October 23<sup>rd</sup>, 2014 (*in Jornal de Negócios*)

Exhibit 1 – BCP Stock Price Evolution



Source: Reuters: Banco Comercial Portugues SA. (BCP.LS)

<https://www.reuters.com/companies/BCP.LS/charts>

Exhibit 2 – BCP Delegated Committee, 1986

|  |
|--|
| Corticeira Amorim, Lda. (Chairman)                     |
| Cifial – Centro Industrial de Ferragens, Lda.          |
| Colep – Companhia Portuguesa de Embalagens, Lda.       |
| Constantino Mota, Filhos, Sucessores                   |
| Construtora Abrantina, Lda.                            |
| Empresa de Sondagens e Fundações Teixeira Duarte, Lda. |
| Hóteis Tivoli, SARL                                    |
| José António Ferreira de Magalhães                     |
| Jorge José Valério                                     |
| José Machado de Almeida & C., Lda.                     |
| Laboratórios Atral, SARL                               |
| Moniz da Maia, Serra & Fortunato, Empreiteiros, SARL   |
| Têxtil Manuel Gonçalves, SARL                          |
| Vicaima – Indústria de Madeira e Derivados, Lda.       |
| Vista Alegre – Empreendimentos Cerâmicos, Lda.         |
| President of the General Meeting                       |
| President of the Executive Board                       |
| President of the Fiscal Board                          |

Source: General Secretariat of Banco Comercial Português

## How low can it go: Corporate Governance at Millennium BCP

Exhibit 3 – BCP Capital Increases (2000 – 2003)

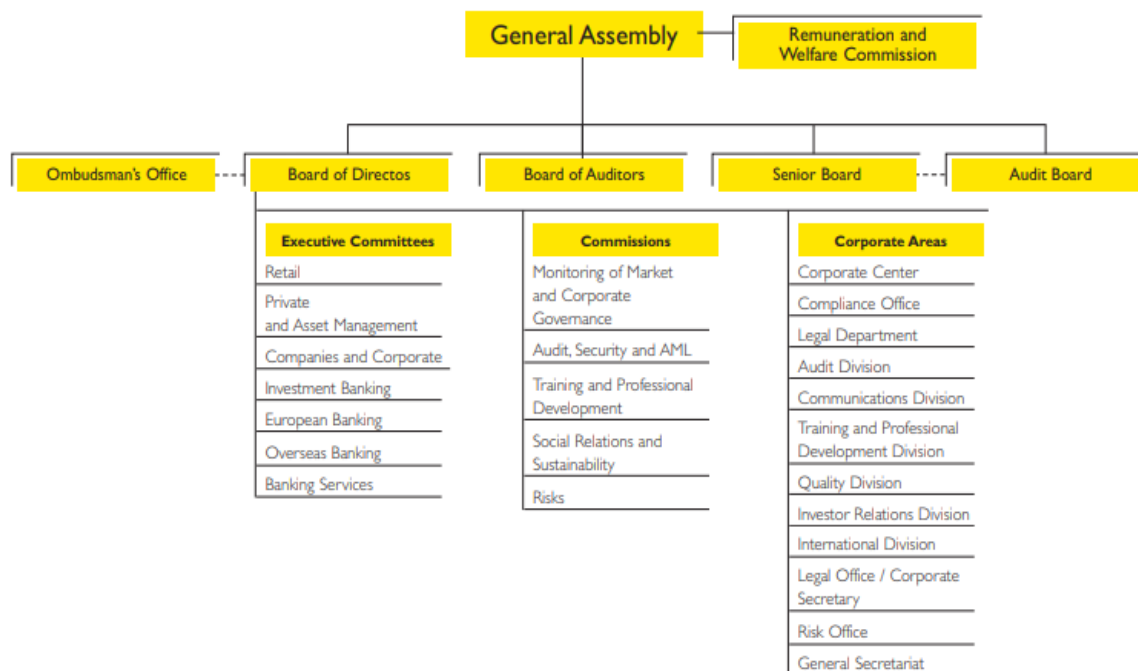
| Date   | Initial number of shares | Stock Splits | Capital Increase | Final number of shares |
|--------|--------------------------|--------------|------------------|------------------------|
| Mar-03 | 2,326,714,887            |              | 930,685,950      | 3,257,400,827          |
| Apr-01 | 2,269,687,552            | 57,027,325   | 0                | 2,326,714,877          |
| Mar-01 | 2,101,562,549            |              | 168,125,003      | 2,269,687,552          |
| Dec-00 | 2,067,860,117            |              | 33,702,432       | 2,101,562,549 j)       |
| Dec-00 | 2,059,551,764            |              | 8,308,353        | 2,067,860,117 a)       |
| Dec-00 | 2,042,971,990            |              | 16,579,774       | 2,059,551,764 i)       |
| Jun-00 | 2,035,861,720            |              | 7,110,270        | 2,042,971,990 h)       |
| Jun-00 | 1,808,038,871            |              | 227,822,849      | 2,035,861,720 g)       |
| Jun-00 | 1,795,496,393            |              | 12,542,478       | 1,808,038,871 f)       |
| Jun-00 | 1,743,575,676            |              | 51,920,717       | 1,795,496,393 e)       |
| Jun-00 | 1,000,000,000            |              | 743,575,676      | 1,743,575,676 d)       |

a) Conversion of convertible bonds.

d) e) f) g) h) i) e j) Resulting from BPSM, Mello, Império, BPA, Mello, BPSM e BII shares respectively.

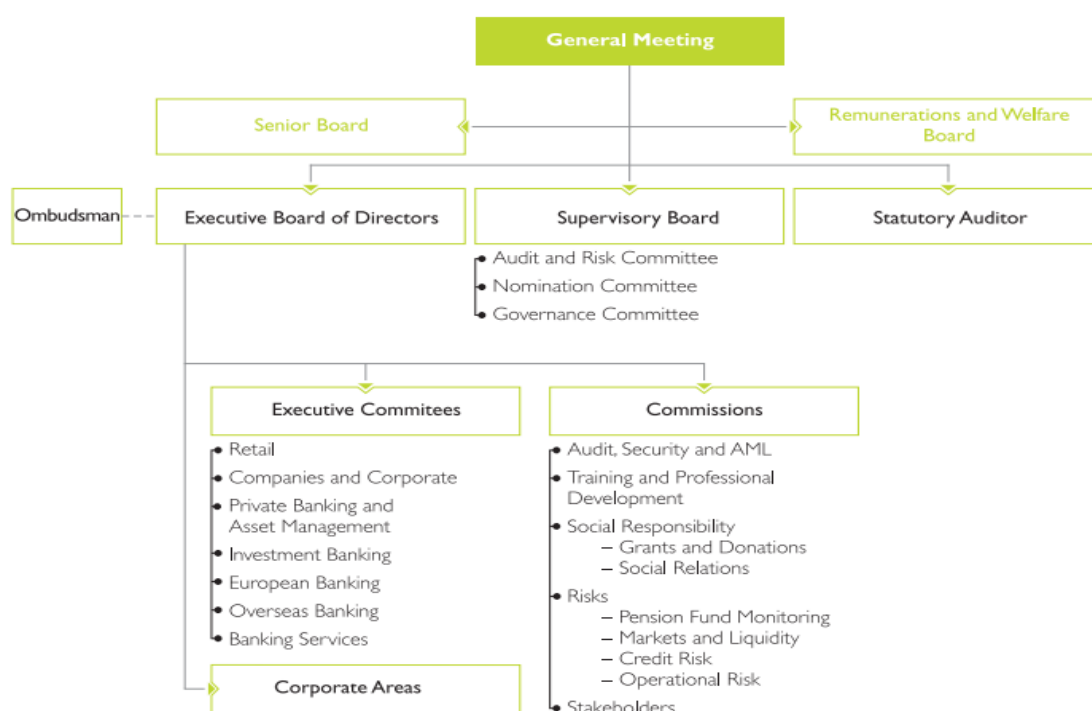
Source: Millennium BCP (adapted). <https://ind.millenniumbcp.pt/en/Institucional/investidores/Pages/AumentosCapital.aspx>.

Exhibit 4 – BCP Governance Model, 2005



Source: Millennium BCP. Report on Corporate Governance (2005). [https://ind.millenniumbcp.pt/en/Institucional/investidores/Documents/RelatorioContas/Annual\\_Rep2005\\_II\\_2.pdf](https://ind.millenniumbcp.pt/en/Institucional/investidores/Documents/RelatorioContas/Annual_Rep2005_II_2.pdf)

Exhibit 5 – BCP Governance Model, 2006



Source: Millennium BCP. Annual Report (2006).

[https://ind.millenniumbcp.pt/en/Institucional/investidores/Documents/RelatorioContas/Annual\\_Rep2006\\_II.pdf](https://ind.millenniumbcp.pt/en/Institucional/investidores/Documents/RelatorioContas/Annual_Rep2006_II.pdf).

Exhibit 6 - BCP Shareholder Structure, Jun 30<sup>th</sup> of 2007

| Shareholder                          |       | no. of shares        | % Capital     |
|--------------------------------------|-------|----------------------|---------------|
| Eureko Group                         | Total | 261.503.924          | 7,24%         |
| BPI Group (1)                        | Total | 264.464.668          | 7,32%         |
| Teixeira Duarte Group                | Total | 223.702.852          | 6,19%         |
| Fortis Bank                          | Total | 149.925.988          | 4,15%         |
| Banco Sabadell (1)                   | Total | 142.647.535          | 3,95%         |
| Fundação José Berardo (2)            | Total | 108.151.164          | 2,99%         |
| Metalgest (2)                        | Total | 107.371.519          | 2,97%         |
| José de Mello Group                  | Total | 110.630.802          | 3,06%         |
| Fundo de Pensões BCP                 | Total | 78.127.246           | 2,16%         |
| Caixa Geral de Depósitos Group       | Total | 76.371.035           | 2,11%         |
| EDP Group (3)                        | Total | 106.124.052          | 2,94%         |
| Privado Financeiras S.A.             | Total | 90.307.525           | 2,50%         |
| Sogema Group                         | Total | 72.287.864           | 2,00%         |
| Sonangol                             | Total | 72.226.593           | 2,00%         |
| <b>Total Qualified Shareholdings</b> |       | <b>1.863.842.767</b> | <b>51,61%</b> |

Source: Millennium BCP. <https://ind.millenniumbcp.pt/en/Institucional/investidores/Pages/EstruturaAcionista.aspx>.

## How low can it go: Corporate Governance at Millennium BCP

### Exhibit 7 - BCP Shareholder Structure, Dec 31<sup>st</sup>, 2007.

| Shareholder  |       | no. of shares        | % Capital     | % Voting rights |
|--|-------|----------------------|---------------|-----------------|
| Banco BPI Group  | Total | 283.201.191          | 7,842%        | 7,842%          |
| Eureko Group   | Total | 255.385.397          | 7,072%        | 7,072%          |
| Berardo Group (1), (2)                                       | Total | 252.817.945          | 7,001%        | 7,001%          |
| Teixeira Duarte Group  | Total | 241.350.566          | 6,683%        | 6,683%          |
| Sonangol, Sociedade Nacional de Combustíveis de Angola, S.A. | Total | 180.000.000          | 4,984%        | 4,984%          |
| Banco Sabadell   | Total | 160.141.055          | 4,434%        | 4,434%          |
| EDP Group (3)  | Total | 116.677.765          | 3,231%        | 3,231%          |
| UBS  | Total | 116.620.719          | 3,229%        | 3,229%          |
| Caixa Geral de Depósitos Group                               | Total | 105.705.393          | 2,927%        | 2,927%          |
| JPMorgan Group   | Total | 105.118.050          | 2,911%        | 2,911%          |
| Sogema Group   | Total | 96.504.452           | 2,672%        | 2,672%          |
| Privado Holding SGPS, S.A.                                   | Total | 83.599.212           | 2,315%        | 2,315%          |
| SFGP Group   | Total | 78.202.905           | 2,165%        | 2,165%          |
| Fundo de Pensões BCP   | Total | 78.127.246           | 2,163%        | 2,163%          |
| Manuel Fino Group  | Total | 73.562.865           | 2,037%        | 2,037%          |
| <b>Total Qualified Shareholdings</b>                         |       | <b>2.227.014.761</b> | <b>61,67%</b> | <b>61,67%</b>   |

Source: Millennium BCP. <https://ind.millenniumbcp.pt/en/Institucional/investidores/Pages/EstruturaAcionista.aspx>.

### Exhibit 8 - Remunerations and Welfare Board, 2007

#### Remunerations and Welfare Board

This Board sets remunerations for the Board of the General Meeting and the Executive Board of Directors and approves the corresponding remunerations policy.

The Board is formed by the following Shareholders, elected by the General Meeting of Shareholders:

**Chairman:** António Manuel Ferreira da Costa Gonçalves (67 years old)

**Voting Members:** João Alberto Ferreira Pinto Basto (76 years old)  
Pedro Maria Caláinho Teixeira Duarte (53 years old)

None of the members of this Board is a member of the Executive Board of Directors, his/her spouse, relative or related in line of descent until the third degree.

António Manuel Ferreira da Costa Gonçalves and João Alberto Ferreira Pinto Basto are members of the Supervisory Board and the Senior Board and Pedro Maria Caláinho Teixeira Duarte is a member of the Senior Board.

The mandate for which they were elected corresponds to 2005/2007.

Source: Millennium BCP. Corporate Governance Report. (2007).  
[https://ind.millenniumbcp.pt/en/Institucional/governacao/Documents/CGR\\_2007.pdf](https://ind.millenniumbcp.pt/en/Institucional/governacao/Documents/CGR_2007.pdf)

Exhibit 9 – BCP Compliance Statement

Regarding recommendation number 8, and as in previous financial years, the Remunerations and Welfare Board, as well as the Executive Board of Directors, consider that, given the collegiate nature of this governing body, consisting entirely of executive members equally and jointly responsible for institutional welfare, it would not be appropriate to disclose individual remunerations.

It should be added that the aforementioned Bodies consider, and the Supervisory Board agreed, that the relevant issue for Shareholders and remaining interested parties is a complete transparency in disclosing the remuneration policies of Directors, including a clear communication of global amounts paid to the Executive Board of Directors for performing its function, as well as the rules governing their establishment and corresponding distribution by the various Board members.

Source: Millennium BCP. Corporate Governance Report, 2007 (adapted).  
[https://ind.millenniumbcp.pt/en/Institucional/governacao/Documents/CGR\\_2007.pdf](https://ind.millenniumbcp.pt/en/Institucional/governacao/Documents/CGR_2007.pdf)

Exhibit 10 – IAS 24 (adapted).

**Objective of IAS 24**

The objective of IAS 24 is to ensure that an entity's financial statements contain the disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and by transactions and outstanding balances with such parties.

**Who are related parties?**

A related party is a person or entity that is related to the entity that is preparing its financial statements (referred to as the 'reporting entity') [IAS 24.9].

(a) A person or a close member of that person's family is related to a reporting entity if that person:

- (i) has control or joint control over the reporting entity;
- (ii) has significant influence over the reporting entity; or
- (iii) is a member of the key management personnel of the reporting entity or of a parent of the reporting entity.

**What are related party transactions?**

A related party transaction is a transfer of resources, services, or obligations between related parties, regardless of whether a price is charged. [IAS 24.9]

**Disclosure**

**Relationships between parents and subsidiaries.** Regardless of whether there have been transactions between a parent and a subsidiary, an entity must disclose the name of its parent and, if different, the ultimate controlling party. If neither the entity's parent nor the ultimate controlling party produces financial statements available for public use, the name of the next most senior parent that does so must also be disclosed. [IAS 24.16]

Source: Deloitte (adapted).

<https://www.iasplus.com/en/standards/ias/ias24>

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